

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

[Signature]

Applicant(s): Steven B. Volk; Michael F. Braitberg; Timothy R. Feldman; Lane W. Lee; Douglas M. Rayburn; Gary G. Kiwimagi
 Assignee: DPHI Acquisitions, Inc. #8

Title: System And Method For Identifying Vendors Of Hidden Content

Serial No.: 09/940,025 Filing Date: August 27, 2001

Examiner: Unknown Group Art Unit: 2100

Docket No.: M-12039 US

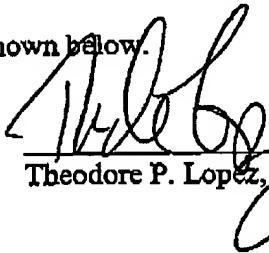
Irvine, California
 December 3, 2003

Fax No.: 703-746-7240
 Commissioner for Patents
 Alexandria, VA 22313-1450

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following executed Power of Attorney by Assignee of Entire Interest (2 pages) including Assignment documents (18 pages) are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Dated: December 3, 2003


 Theodore P. Lopez, Reg. No. 44,881

Total No. of Pages: 21

**PLEASE CONFIRM RECEIPT OF THIS PAPER BY
 RETURN FACSIMILE AT (949) 752-7049**

32605

MacPherson Kwok Chen & Heid LLP
 1762 Technology Drive
 Suite 226
 San Jose, California 95110
 Telephone: (949) 752-7040
 Fax: (408) 392-9262

LAW OFFICES OF
 MACPHERSON KWOK CHEN
 & HEID LLP
 1762 TECHNOLOGY DRIVE
 SUITE 226
 SAN JOSE, CA 95110
 (949) 752-7040
 FAX (408) 392-9262

RECEIVED
 CENTRAL FAX CENTER
 DEC 05 2003

OFFICIAL

Fax to USPTO

-1-

Serial N . 09/940,025

RECEIVED
CENTRAL FAX CENTER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 05 2003

Applicant(s): Steven B. Volk; Michael F. Braitberg; Timothy R. Feldman; Lane W. Lee; Douglas M. Rayburn; Gary G. Kiwimagi

Assignee: DPHI Acquisitions, Inc.

Title: System And Method For Identifying Vendors of Hidden Content

Serial No.: 09/940,025 Filing Date: August 27, 2001

Examiner: Unknown Group Art Unit: 2100

Docket No.: M-12039 US

OFFICIAL

COMMISSIONER FOR PATENTS
 Alexandria, VA 22313-1450

POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST

Sir:

The above-identified assignee, hereby revokes all powers of attorney previously given and appoints the attorney(s) and/or agent(s) identified below to prosecute the above-identified application and to transact all business in the United States Patent and Trademark Office in connection therewith:

Customer No. 32605

Please address all correspondence and telephone calls regarding this application to:

Theodore P. Lopez
 MacPherson Kwok Chen & Heid LLP
 1762 Technology Drive, Suite 226
 San Jose, CA 95110
 Phone: (949) 752-7040
 Fax: (408) 392-9262

ASSIGNEE CERTIFICATION UNDER 37 CFR 3.73(B)

The undersigned representative of the above-identified assignee certifies that the above-identified assignee is the assignee of the entire right, title and interest in the above-identified

patent application/patent by virtue of a chain of title from the inventor(s) of the above-identified patent application/patent to the above-identified assignee as shown below:

1. From: Steven B. Volk To: DataPlay, Inc.
2. From: Michael F. Braitberg To: DataPlay, Inc.
3. From: Timothy R. Feldman To: DataPlay, Inc.
4. From: Lane W. Lee To: DataPlay, Inc.
5. From: Douglas M. Rayburn To: DataPlay, Inc.
6. From: Gary G. Kiwimagi To: DataPlay, Inc.

The document was submitted to the Patent and Trademark Office for recordation on August 27, 2001. A copy of the document is attached.

7. From: DataPlay, Inc. To: Silicon Valley Bank

A copy of the assignment document being attached hereto.

8. From: Silicon Valley Bank To: DPHI Acquisitions, Inc.

A copy of the assignment document being attached hereto.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the above-identified assignee.

Date: 11/19/03


By: _____
(Signature)

Name: DAVID H. DAVIES
(Printed or Typed Name)

Title: CTO

Attorney Docket No.: M-12039 US

ASSIGNMENT

For good and valuable consideration, receipt of which is hereby acknowledged, we

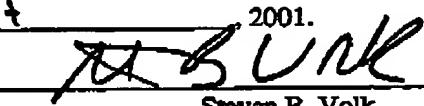
<u>Steven B. Volk</u>	of <u>Boulder, Colorado</u>
<u>Michael F. Braitbeg</u>	of <u>Boulder, Colorado</u>
<u>Timothy R. Feldman</u>	of <u>Louisville, Colorado</u>
<u>Lane W. Lee</u>	of <u>Lafayette, Colorado</u>
<u>Douglas M. Rayburn</u>	of <u>Denver, Colorado</u>
<u>Gary G. Kiwimagi</u>	of <u>Loveland, Colorado</u>

hereby sell, assign and transfer to DataPlay, Inc., a Delaware corporation, having a place of business at 2560 55th Street, Boulder, Colorado 80301, its successors and assigns, the entire right, title and interest throughout the world in our invention in:

System and Method For Identifying Vendors Of Hidden Content

for which we have executed a United States patent application on or about the date of this assignment, and all patent applications and patents of every country for said invention, including divisions, reissues, continuations and extensions thereof, and all rights of priority resulting from the filing of said applications; we authorize the above-named assignee to apply for patents of foreign countries for said invention, and to claim all rights of priority without further authorization from us; we agree to execute all papers useful in connection with said United States and foreign applications, and generally to do everything possible to aid said assignee, their successors, assigns and nominees, at their request and expense, in obtaining and enforcing patents for said invention in all countries; and we request that the United States Patent and Trademark Office issue all patents granted for said invention to the above-named assignee, its successors and assigns.

Executed this 23 day of August, 2001.

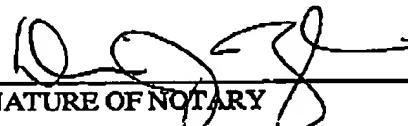


Steven B. Volk

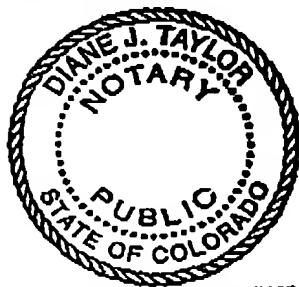
State of Colorado)
County of Boulder) ss.

On 8-23-2001 before me Diane J. Taylor
personally appeared Steven B. Volk personally known to me
or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are)
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

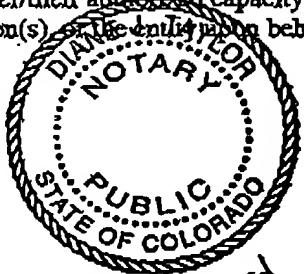
WITNESS my hand and official seal.



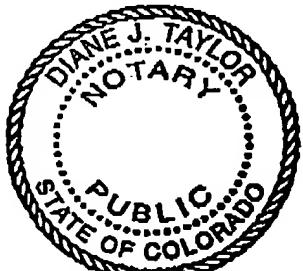
SIGNATURE OF NOTARY



My Commission Expires 2/14/2005

Executed this 23 day of August, 2001.Michael F. Braitberg
Michael F. BraitbergState of Colorado)
) ss.
County of Boulder)On 8-23-2001 before me, Diane J. Taylor personally appeared Michael F. Braitberg personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Diane J. Taylor
SIGNATURE OF NOTARYMy Commission Expires 2/14/2005 day of August, 2001.Timothy R. Feldman
Timothy R. FeldmanState of Colorado)
) ss.
County of Boulder)On 8-23-2001 before me, Diane J. Taylor personally appeared Timothy R. Feldman personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

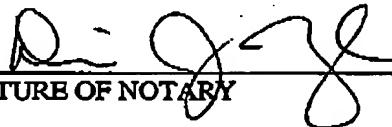
My Commission Expires 2/14/2005

WITNESS my hand and official seal.

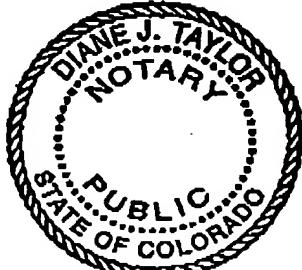
Diane J. Taylor
SIGNATURE OF NOTARY

Executed this 24 day of August, 2001.Lane W. Lee
Lane W. LeeState of Colorado)
) ss.
County of Boulder)On 8-24-2001 before me, Diane J. Taylor personally appeared Lane W. Lee personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


 SIGNATURE OF NOTARY

My Commission Expires 2/14/2005

Executed this 23 day of August, 2001.Douglas M. Rayburn
Douglas M. RayburnState of Colorado)
) ss.
County of Boulder)On 8-23-2001 before me, Diane J. Taylor personally appeared Douglas M. Rayburn personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

My Commission Expires 2/14/2005

WITNESS my hand and official seal.


 SIGNATURE OF NOTARY

Executed this 23 day of August, 2001.

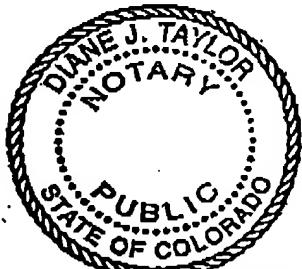
Gary G. Kiwimagi
Gary G. Kiwimagi

State of Colorado)
) ss.
County of Boulder)

On 8-23-2001 before me, Diane J. Taylor personally known to me personally appeared Gary G. Kiwimagi personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

D. J. Taylor
SIGNATURE OF NOTARY



ASSIGNMENT

This Assignment ("Assignment") is effective as of the date of execution hereof by SILICON VALLEY BANK ("SVB") having a place of business at 3003 Tasman Drive, Santa Clara, California 95054, GATX VENTURES, INC ("GATX") having a place of business at 3687 Mt. Diablo Boulevard, Suite 200, Lafayette, California 94549, and SEQUEL ENTREPRENEURS' FUND II, L.P., in its capacity as Collateral Agent ("Sequel") having a place of business at 4430 Arapahoe Avenue, Suite 220, Boulder, Colorado 80303 (SVB, GATX and Sequel hereinafter collectively referred to as "Assignors"). The rights assigned herein will be owned by DPHI Acquisitions, Inc., a Delaware corporation, (hereinafter "Assignee"), with its principal place of business located at 2580 55th Street, Boulder, Colorado 80301.

WHEREAS, Assignors have acquired all rights, title and interest to technologies ("Technology") including, but not limited to, all versions of any software, firmware, hardware, chip layout and design, manufacturing processes, methods and system (including, without limitation, computer applications), ideas, inventions, disclosures, original works of authorship, developments, improvements, modifications, or enhancements, created, acquired and/or developed by or on behalf of DataPlay, Inc., including, without limitation, all object code and source code; all designs, drawings, specifications, models, data, algorithms, documentation, diagrams, flow charts and development plans, know-how and techniques, trade secrets and materials; all derivative works of the foregoing by whomever created (in object code, source code, or any other form and/or any media); and all tangible embodiments of the foregoing (in whatever form or media); and

WHEREAS, Assignors hereby desire to irrevocably assign to Assignee all rights, title and interest in and to the Technology.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors make the following assignment:

1. Assignors hereby irrevocably assign to Assignee all of Assignors' rights, title and interest in and to the Technology, said rights, title and interest including, but not limited to, all patent rights, copyrights, trademark rights, mask rights, trade secret rights and all other intellectual and industrial property rights anywhere in the world thereto, to have and to hold the same unto Assignee, its successors and assigns. In addition, Assignors hereby assign to Assignee and waives any and all moral rights Assignors may have in and to the Technology or any portion thereof.

2. Assignors irrevocably assign to Assignee all of Assignors' rights, title and interest in and to all patent applications and issued patents so derived from the Technology, together with any reissue, continuation, division, continuation-in-part or extension thereof, filed in the United States, as listed in Attachment A, and Internationally, as listed in Attachment B. In addition, Assignors irrevocably assign to Assignee all of Assignors' rights, title and interest in all invention disclosures as listed in Attachment C.

3. At any time, and from time to time after the date of execution of this Assignment, Assignors shall forthwith, upon Assignee's request, take any and all steps to

execute, acknowledge and deliver to Assignee any and all further instruments and assurances necessary or expedient in order to vest the aforesaid rights and causes of action more effectively in Assignee and to facilitate Assignee's enjoyment and enforcement of said rights and causes of action.

4. Assignors hereby constitute and appoint Assignee as Assignors' true and lawful attorney-in-fact, with full power of substitution in Assignors' name and stead, to take any and all steps, including proceedings at law, in equity or otherwise, to execute, acknowledge and deliver any and all instruments and assurances necessary or expedient in order to vest or perfect the aforesaid rights and causes of action more effectively in Assignee or to protect the same or to enforce any claim or right of any kind with respect thereto. This includes, but is not limited to, any rights with respect to the Technology that may accrue or have accrued in Assignors' favor from the respective date of creation of the Technology to the date of this Assignment. Assignors hereby declare that the foregoing power is coupled with an interest and is irrevocable.

5. To the extent, if any, that Assignors retain any right, title or interest with respect to the Technology or rights in any technology or materials that would be infringed by Assignee's use, sale, offer for sale, modification, making, maintenance, support, reproduction or distribution of any of the Technology, Assignors hereby grant to Assignee an exclusive, irrevocable, perpetual, fully paid-up, royalty-free, transferable, sublicensable, worldwide right and license to exploit and exercise all such technology and materials (i) to use, sell, offer to sell, modify, make, maintain, support, reproduce and distribute all or any portion of the Technology, including, without limitation, the making of additions to or deletions from the Technology, regardless of the medium (now or hereafter known) into which the Technology may be modified.

6. No waiver of any breach or condition of this Assignment shall be deemed to be a waiver of any other or subsequent breach or condition, whether of like or different nature. If any provision of this Assignment is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Assignment shall otherwise remain in full force and effect and enforceable. This Assignment shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and to be wholly performed within California, without regard to conflicts of laws provisions thereof.

WITHOUT LIMITING IN ANY WAY THE PROVISIONS OF THE ASSET PURCHASE AGREEMENT DATED FEBRUARY 19, 2003, BETWEEN ASSIGNORS AND ASSIGNEE, INCLUDING THE ASSIGNORS' REPRESENTATIONS AND WARRANTIES SET FORTH THEREIN, ALL OF WHICH APPLY TO THIS ASSIGNMENT AND ALL OF WHICH TERMS OF THE ASSET PURCHASE AGREEMENT ARE APPLICABLE TO THIS ASSIGNMENT AND THE CONVEYANCE EFFECTUATED PURSUANT HERETO, ASSIGNORS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO: THE TITLE TO THE TECHNOLOGY; THE CONDITION, DESIGN, OR QUALITY OF THE TECHNOLOGY; THE FITNESS OF THE TECHNOLOGY FOR USE OR FOR A PARTICULAR PURPOSE; THE MERCHANTABILITY OF THE TECHNOLOGY; COMPLIANCE OF THE

TECHNOLOGY WITH THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS OR CONTRACTS PERTAINING THERETO; PATENT INFRINGEMENT; LATENT DEFECTS; THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE TECHNOLOGY OR THE CONFORMITY OF THE TECHNOLOGY TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO; THE OPERATION, USE, OR PERFORMANCE OF THE TECHNOLOGY; OR ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE TECHNOLOGY. ASSIGNEE ALSO ACKNOWLEDGES THAT ASSIGNORS HAVE MADE NO REPRESENTATION OR WARRANTY OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, WITH RESPECT TO THE OPERATION, USE OR PERFORMANCE OF THE TECHNOLOGY.

ASSIGNORS SHALL HAVE NO LIABILITY TO ASSIGNEE OR ANY PERSON WHOMSOEVER (INCLUDING LICENSEES OR PURCHASERS OF ALL OR ANY OF THE TECHNOLOGY) FOR ANY CLAIM, LOSS, DAMAGE OR EXPENSE (INCLUDING ATTORNEY FEES) OF ANY KIND OR NATURE, WHETHER SPECIAL, CONSEQUENTIAL, ECONOMIC OR OTHERWISE, CAUSED OR ALLEGED TO BE CAUSED DIRECTLY, INDIRECTLY, INCIDENTAL, OR CONSEQUENTIAL BY THE TECHNOLOGY OR ANY PART THEREOF OR PRODUCTS THEREFROM, BY ANY INADEQUACY OF THE TECHNOLOGY OR DEFECT OR DEFICIENCY THEREIN, BY ANY INCIDENT WHATSOEVER ARISING IN STRICT LIABILITY OR OTHERWISE FROM ASSIGNORS' OR ASSIGNEE'S NEGLIGENCE OR OTHERWISE OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, OR ARISING OUT THE TECHNOLOGY.

Assignee acknowledges that Assignors have made no representation or warranty concerning the location of the Technology nor whether all of the Technology is in existence or operational. ASSIGNEE PURCHASES THE TECHNOLOGY AS IS AND WHERESOEVER LOCATED, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. Assignee accepts the Technology subject to the terms of this Assignment.

Assignee agrees to be responsible for all taxes, that are now existing or hereafter are incurred, assessed, or imposed on the Technology or as a result of the ownership or sale of the Technology, except as expressly provided otherwise in the Asset Purchase Agreement. Assignee hereby agrees to hold Assignors harmless from and against any and all taxes, that are now existing or are hereafter incurred, assessed or imposed on the Technology or as a result of the ownership of the Technology.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

Date: 3-4-2003

Marla Johnson
Signature of Assignor

Marla Johnson, Senior Vice President
Printed Name and Title

GATX VENTURES, INC.

Date: _____

Signature of Assignor

Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: _____

Signature of Assignor

Printed Name and Title

DEC. 3. 2003 4:17PM MACPHERSON KWOK CHEN
03-28-U3 01:15pm from HUTCHinson BURKE and COOK, L.L.C.

3034426599

T-8 NO. 5146/27 P. 12/21

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

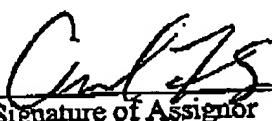
Date: _____

Signature of Assignor

Printed Name and Title

GATX VENTURES, INC.

Date: 3-4-2003



Signature of Assignor

CARL F. SWANSON, V.P.
Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: _____

Signature of Assignor

Printed Name and Title

(W0734733 JLC)

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

Date: _____

Signature of Assignor

Printed Name and Title

GATX VENTURES, INC.

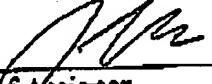
Date: _____

Signature of Assignor

Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: 3-5-03


Signature of Assignor

John T. Greff Manager
Printed Name and Title

VOLUNTARY SURRENDER AGREEMENT

THIS VOLUNTARY SURRENDER AGREEMENT (the "Agreement") dated as of March 4, 2003, is by and between DATAPLAY, INC., a Delaware corporation ("Borrower"), on the one hand and SILICON VALLEY BANK (the "Bank"), GATX VENTURES, INC. ("GATX"), (collectively, Bank and GATX are referred to as "Senior Lenders") and SEQUEL ENTREPRENEURS' FUND II, L.P., in its capacity as Collateral Agent ("Sequel") on the other hand (collectively, Sequel and Senior lenders are referred to as "Lenders").

RECITALS

A. Senior Lenders and Borrower are parties to an Equipment Loan and Security Agreement dated December 20, 2001, which together with all other documents, instruments and writings which relate thereto or executed in connection therewith are collectively referred to as the "Loan Agreement," and pursuant to which Senior Lenders made loan to Borrower (the "Loan").

B. Borrower was and is indebted under certain Secured Notes to the persons and entities named on the Schedule of Purchasers ("Purchasers") attached to that certain Secured Note and Warrant Purchase Agreement dated as of May 10, 2002 by and among Borrower and the Purchasers (the "Purchase Agreement"). Pursuant to the Purchase Agreement, the Purchasers appointed Sequel as Collateral Agent.

C. Borrower acknowledges that Lenders claim a valid and perfected security interest in all or substantially all of the Borrower's assets, and proceeds thereof (the "Collateral"), including without limitation, (a) inventory; (b) all accounts and contract rights of the Borrower; (c) all interests of the Borrower arising in the goods, the sale or lease of which give rise to any accounts; (d) all chattel paper, documents and instruments relating to any such accounts; (e) all rights, title and interest to technologies ("Technology") including, but not limited to, all versions of any software, firmware, hardware, chip layout and design, manufacturing processes, methods and system (including, without limitation, computer applications), ideas, inventions, original works (including, without limitation, developments, improvements, modifications, or enhancements, created, of authorship, trade secrets and materials; all derivative works of the foregoing by whomever created (in object code, source code, or any other form and/or any media); and all tangible embodiments of the foregoing (in whatever form or media); said rights, title and interest including, but not limited to, all patent rights, copyrights, trademark rights, mask rights, trade secret rights and all other intellectual and industrial property rights anywhere in the world thereto; (f) all furniture, fixtures and equipment; and (g) proceeds of the foregoing.

D. Borrower is in default under the Loan Agreement and the Purchase Agreement. Lenders have declared a default and accelerated the Loan and the Secured Notes.

E. Borrower is currently a debtor in possession in connection with Case No. 02-26846 ABC (the "Bankruptcy Case"), pending in the United States Bankruptcy Court for the District of Colorado (the "Bankruptcy Court").

F. On February 12, 2003, the Bankruptcy Court granted Lenders' Motion for Stay Relief to Foreclose Collateral, lifting the automatic stay of 11 U.S.C. § 362(a) to permit Lenders to exercise their rights with respect to the Collateral under applicable non-bankruptcy law.

G. Lenders have requested Borrower to voluntarily surrender the Collateral to Lenders and Borrower has agreed to do so. Borrower desires to voluntarily surrender the Collateral to Lenders in order to minimize costs to Lenders in exercising their secured rights with respect to the Collateral.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; Borrower and Lenders agree as follows:

1. **Voluntary Surrender.** Borrower hereby voluntarily surrenders possession of the Collateral to Lenders, including the tangible personal property located at Borrower's former offices located in Boulder, Colorado. Borrower further agrees to transfer directly to DPHI Acquisitions, Inc., which is purchasing the Collateral from Lenders, \$625,000, which is a portion of proceeds attributable to, or derived from, the liquidation of DataPlay Japan, Inc. and DataPlay Pte. Ltd. (the "Liquidation Proceeds"). DPHI Acquisitions, Inc. shall hold the Liquidation Proceeds in a separate account pending resolution of the Borrower's motion to dismiss filed with the Bankruptcy Court or any legal determination whether Lenders and/or Sequel have perfected security interests therein. If any court of competent jurisdiction finally determines that the Lenders and/or Sequel are not perfected in the Liquidation Proceeds, DPHI Acquisitions shall return the Liquidation Proceeds to the Borrower (or to the Chapter 7 Trustee if the case is converted or otherwise as any court directs). Such restrictions shall terminate, and any remaining Liquidation Proceeds shall be paid to DPHI Acquisitions, Inc., upon the earlier of (i) dismissal of the Borrower's bankruptcy petition or (ii) a judicial determination that Senior Lenders and/or Sequel have perfected security interests in the Liquidation Proceeds.

2. **Obligations Under Loan Agreement Not Relieved.** Borrower expressly acknowledges and agrees that execution and performance under this Voluntary Surrender Agreement does not and shall not relieve, satisfy, alter or otherwise affect the obligations of Borrower under the Loan Agreement, the Purchase Agreement or the Secured Notes. Specifically, Borrower acknowledges and agrees that delivery to and possession by

Lenders of the Collateral shall not constitute transfer in payment or satisfaction of the obligations owing under the Loan Agreement, the Purchase Agreement or the Secured Notes and all indebtedness owing thereunder remains outstanding and enforceable. However, Lenders do hereby release any claims they might have in any cash in the hands of DataPlay's professionals and consent to the payments made prior to this Agreement but after October 18, 2002 for Borrower's ordinary course of business expenses.

3. Borrower's Acknowledgments, Representations and Warranties. Borrower hereby acknowledges to Lenders, that: (a) Borrower is in default of the Loan Agreement, the Purchase Agreement and the Secured Notes; (b) to the best of Borrower's knowledge, information and belief, Senior Lenders have a first priority perfected security interest in the Collateral, subject only to 2001 and 2002 personal property taxes owing to Boulder County, Colorado; (c) to the best of Borrower's knowledge, information and belief, Borrower has no defenses to Lenders' exercise of their rights in connection with the Loan Agreement, the Purchase Agreement, and the Secured Notes and (d) the Loan Agreement, the Purchase Agreement and the Secured Notes are in full force and effect and remain enforceable in accordance with their terms.

4. Subsequent Disposition of Collateral. Borrower acknowledges and agrees that under the prevailing circumstances a sale in bulk of the Collateral by Lenders will likely maximize the value thereof and will generate maximum net value to be applied to Borrower's outstanding obligations under the Loan Agreement, the Purchase Agreement and the Secured Notes.

5. Documentation to be Provided. Borrower agrees to timely and fully cooperate with Lenders in all respects of the turnover and disposition of the Collateral, specifically including, but not limited to executing any reasonable additional documentation required to carry out the terms of this Agreement.

6. Counterparts/Facsimile Signatures. This Agreement may be executed in counterpart and by telefacsimile signatures.

7. Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. Modification. This Agreement may not be modified, amended or changed unless such modification, amendment or change is evidenced in writing by Lenders and Borrower.

9. Severability. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant, or condition and shall otherwise remain enforceable.

10. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without giving effect to principles of conflict of laws.

11. **Construction.** In the event of any inconsistency, ambiguity or conflict between or among the provisions of this Agreement and the Loan Agreement, the terms of this Agreement shall prevail. In the event of any inconsistency, ambiguity or conflict between or among the provisions of this Agreement, the provision which best assures the payment and performance of the obligations of Borrower under the Loan Agreement or enlarges the interest of Lenders in and to the Collateral shall prevail. The terms of this Agreement shall be construed without regard to who drafted the various provisions hereof and shall be construed as though all parties hereto had participated equally in the drafting. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

12. **No Other Representations.** It is expressly understood by the Borrower that there have been no representations, express or implied, other than as set forth in this Agreement and any other document executed and delivered in connection herewith. This Agreement together with the other documents executed and delivered in connection herewith or pursuant hereto, contains the entire and complete understanding of the parties and supersedes all previous verbal and written agreements; there are no other agreements, representations, or warranties not set forth herein.

13. **Successors and Assigns.** This Agreement is binding upon and inures to the benefit of the permitted successors and assigns of the parties hereto.

14. **Time of Essence.** Borrower hereby acknowledges and agrees that time is strictly of the essence with respect to each and every term, condition, obligation and provision of this Agreement.

15. **Voluntary Execution.** By their signatures below, each party affirms that they have all requisite authority, corporate or otherwise, to enter into this Agreement and that they have read and fully understand this Agreement. The parties further affirm that they are entering into this Agreement voluntarily and have not been threatened, coerced, or intimidated or in any way pressured into signing this Agreement, they have had sufficient time to reflect upon the finality of this Agreement, and they have had sufficient opportunity to consult with legal counsel regarding this Agreement.

16. **Further Assurances.** Each party to this Agreement hereby agrees to execute and deliver such other and further documents as may be reasonably requested by the other party to more fully effectuate the terms, conditions and transactions contemplated by this Agreement.

DATED as of the date first above written.

SILICON VALLEY BANK

By: Marla Johnson
Name: Marla Johnson
Title: Senior Vice President

GATX VENTURES, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

DATAPLAY, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

SEQUEL ENREPRENEURS FUND II, L.P.
in its capacity as Collateral Agent

By: _____
Name: _____
Title: _____

DPHI Acquisitions, Inc., as to section 1 concerning the Liquidation Proceeds

By: _____
Name: _____
Title: _____

DATED as of the date first above written.

SILICON VALLEY BANK

By: _____
Name: Marla Johnson
Title:

GATX VENTURES, INC., a Delaware
corporation

By: _____
Name:
Title:

DATAPLAY, INC., a Delaware corporation


By: _____
Name: D. H. Davies
Title: Director

SEQUEL ENREPRENEURS FUND II, L.P.
in its capacity as Collateral Agent

By: _____
Name:
Title:

DPHI Acquisitions, Inc., as to section 1 concerning the Liquidation Proceeds

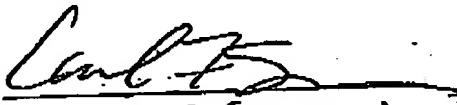
By: W. J. Alay
Name: William J. Alay Jr.
Title: PRESIDENT

DATED as of the date first above written.

SILICON VALLEY BANK

By: _____
Name: Marla Johnson
Title:

GATX VENTURES, INC., a Delaware
corporation

By: 
Name: Carl F. Swanson
Title: VP

DATAPLAY, INC., a Delaware corporation

By: _____
Name:
Title:

SEQUEL ENREPRENEURS FUND II, L.P.
in its capacity as Collateral Agent

By: _____
Name:
Title:

DPHI Acquisitions, Inc., as to section 1 concerning the Liquidation Proceeds

By: _____
Name:
Title:

DATED as of the date first above written.

SILICON VALLEY BANK

By: _____
Name: Marla Johnson
Title:

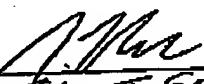
GATX VENTURES, INC., a Delaware
corporation

By: _____
Name:
Title:

DATAPLAY, INC., a Delaware corporation

By: _____
Name:
Title:

SEQUEL ENREPRENEURS FUND II, L.P.
in its capacity as Collateral Agent

By: 
Name: John T. Groff
Title: Manager

DPHI Acquisitions, Inc., as to section 1 concerning the Liquidation Proceeds

By: _____
Name:
Title: